



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – OCTOBER 3, 2005

FULL BOARD SUMMARY MINUTES¹

OCTOBER 3, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Maeley Tom, Vice President
Ron Alvarado, Member
Sean Harrigan, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

The Executive Officer invited Mary Fernandez, Chief of the SPB's Administrative Services Division, to brief the Board on the SPB's budget and Budget Change Proposals (BCPs). In particular, the Board discussed what priority should be given to taking back the county audit function from CPS. No consensus was reached on that point.

**3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)
– DPA Representatives**

Bill Avritt gave a brief report on recent activities of the Department of Personnel Administration

**4. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)
– Ron Alvarado**

Member Ron Alvarado gave a brief report on recent activities of the Public Employees Retirement System.

5. REPORT OF THE CHIEF COUNSEL – Elise Rose

Litigation:

- Avril Adams v. State – Jury verdict for defense. The plaintiff had applied for lateral transfer to a peace officer position with the Department of Health Services. Originally, after a conditional offer had been made, the State Medical Officer imposed medical restrictions. He subsequently cleared her,

¹ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

but the department refused to hire her on grounds that her behavior during the application process was inappropriate.

- SPB v. CSEA (post and bid) – DPA has sent out a management memo which states that DPA has settled an arbitration with CSEA and will allow for some additional “post and bid” transfer appointments within same class and within same agency.
- City and County of San Diego v. State – This suit seeks reimbursements from state agencies for various state mandates that they have not yet been reimbursed for. SPB staff is being deposited as to SPB budget.
- Carpenters Local 46 v. State – Case Management conference scheduled for 10/13. Case is in discovery.

Other:

- New attorney Stephanie Ramirez-Ridgeway starts today, 10/03/05.
- Article on post and bid Supreme Court case to appear *California State Bar Labor and Employment* section magazine.
- SPB Chief Counsel scheduled to speak at PTC/NC luncheon on October 14, 2005.

6. NEW BUSINESS

The Board has requested a discussion regarding the Department of Personnel Administration's Post and Bid memorandum at the next full Board meeting.

7. REPORT ON LEGISLATION – Sherry Hicks

- AB 124 on Governor's desk.
- Governor vetoed AB 529 and AB 1066.

8. HEARING – SECOND PUBLIC HEARING ON PROPOSED REVISIONS TO WHISTLEBLOWER RETALIATION COMPLAINT REGULATIONS (Title 2, C.C.R., section 56 et. seq.) – Bruce Monfross

Persons Participating:

Bruce Monfross – California State Personnel Board
Melinda Williams – SEIU Local 1000

ACTION: SUBMITTED

9. HEARING – SECOND PUBLIC HEARING ON PROPOSED REVISIONS TO DISCOVERY REGULATIONS IN EVIDENTIARY HEARINGS REGULATIONS (Title 2, C.C.R., section 57 et. seq.) – Bruce Monfross

Persons Participating:

Bruce Monfross – California State Personnel Board
Melinda Williams – SEIU Local 1000

ACTION: SUBMITTED

10. ORAL ARGUMENT

Oral argument in the matter of **MARK SAMORA, CASE NO. 04-3041A**
Appeal from dismissal. Instructional Technology Consultant. California State University, Los Angeles.

Persons Participating:

Victor King, University Counsel, representing respondent.
Hubert Lloyd, Attorney, representing appellant.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

12. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

13. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

14. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

15. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**16. HEARING – PERSONAL SERVICES CONTRACT #05-04:
CASE's Appeal of the Executive Officer's Decision**

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's April 1, 2005 Approval of a Contract for Legal Services between the Secretary of State's Office and Renne & Holtzman Public Law Group, LLP

Persons Participating:

Steven Bassoff, Attorney, representing CASE.
Pam Giarrizzo, Chief Counsel, representing Secretary of State.
Charity Kenyon, Attorney, representing Renne & Holtzman Public Law Group.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

**17. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

18. INTRODUCTION OF NEW EMPLOYEES – Maria Flores

State Personnel Board's new employees were presented by Gene Castillo.

**19. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
OCTOBER 18, 2005, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

20. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES

- **AUGUST 9, 2005** – Adopted on October 3, 2005

VOTE: Alvarado, Harrigan, Sheehan - Aye

- **AUGUST 30, 2005** – Adopted on October 3, 2005

VOTE: Tom, Alvarado, Harrigan, Sheehan - Aye

21. **EVIDENTIARY CASES** - (See Case Listings on Page 10-18)
22. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION** - (See Minutes Page 24-25)

ACTION: ADOPTED

VOTE: Tom, Alvarado, Harrigan, Sheehan - Aye

23. **NON-EVIDENTIARY CASES** - (See Case Listings on Page 18-21)
24. **NON-HEARING CALENDAR**

On October 3, 2005, the following proposals were presented to the Board by Laura M. Aguilera, Assistant Executive Officer. The Board also adopted submitted resolution to abolish the Associate Governmental Program Analyst eligible list created by the California Department of Education.

VOTE: Tom, Alvarado, Harrigan, Sheehan - Aye

- A. **THE PRISON INDUSTRY AUTHORITY**
proposes to make revisions to the Definition, Typical Tasks, Minimum Qualifications and Knowledge, Skills and Abilities sections to the Sales Order classification.

ACTION: APPROVED

- B. **THE SECRETARY OF STATE'S OFFICE**
proposes to return delegated examination and open temporary appointment (TAU) authorization to the Secretary of State's Office and rescind the requirement for SPB review and oversight of all examinations and open TAU appointments.

ACTION: APPROVED

25. **STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

NONE

26. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes served to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, OFFICE OF SELF INSURANCE PLANS

The Department of Industrial Relations proposes to allocate the above position to the CEA category. The Chief, Office of Self Insurance Plans (SIP) is responsible for organizing, planning and directing the statewide operation of SIP.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

DEPUTY DIRECTOR, OFFICE OF PROBLEM GAMBLING

The Department of Alcohol and Drug Program's proposal to allocate the above position to the CEA category has been disapproved effective July 29, 2005.

CHIEF, PUBLIC PARTICIPATION PROGRAM

The State Water Resources Control Board's proposal to allocate the above position to the CEA category has been approved effective September 7, 2005.

ACTION: NOTED

27. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

NONE

28. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

29. BOARD ACTIONS ON SUBMITTED ITEMS – (See Minutes - Page 22-23)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on these Minutes under Evidentiary Cases.

A D J O U R N M E N T

21. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On October 3, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

(1) **PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision adopted November 3, 2004
modifying dismissal to 45 calendar days suspension

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

Oral argument continued

Oral argument heard July 13, 2005, Sacramento

Case ready for decision by FULL Board

NO ACTION

(2) **JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension

Classification: Associate Management Auditor

Department: Employment Development Department

Proposed decision rejected April 19, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

Oral argument continued

Oral argument heard August 9, 2005, Sacramento

Case ready for decision by FULL Board

NO ACTION

**(3) INTERNATIONAL UNION OF OPERATING ENGINEERS,
UNIT 12, LOCALS 3, 12, 39, & 501, CASE NO. 04-0813A
[PSC File No. 04-002 (b)]**

Review of personal services contract for maintenance
and grounds keeping

Department: California Science Center

Proposed decision rejected June 21, 2005

Transcript prepared

Oral argument heard August 30, 2005, Los Angeles

Case ready for decision by FULL Board

ACTION: The Board issued a resolution remanding the matter
back to the Chief ALJ for an evidentiary hearing.

(4) JOSEPH MARTINEZ, CASE NO. 04- 2690A

Appeal from dismissal

Classification: Hospital Police Officer

Department: Department of Mental Health

Proposed decision rejected May 17, 2005

Transcript prepared

Oral argument heard August 30, 2005, Los Angeles

Case ready for decision by FULL Board

NO ACTION

(5) JAMES MCAULEY, CASE NO. 04-1856A

Appeal from dismissal

Classification: Associate Transportation Engineer, Caltrans
(Registered)

Department: Department of Transportation

Proposed decision rejected March 8-9, 2005

Transcript prepared

Oral argument heard June 7, 2005, Sacramento

Case ready for decision by FULL Board

ACTION: The Board issued a resolution sustaining the dismissal
with member Harrigan dissenting.

October 3, 2005

- (6) **ANDREW RUIZ, CASE NO. 04-2391A**
Appeal from dismissal
Classification: Correctional Lieutenant
Department: Department of Corrections

Proposed decision rejected June 7, 2005
Transcript prepared
Oral argument heard August 30, 2005, Los Angeles
Case ready for decision by FULL Board

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

This case was on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On October 3, 2005, the Board took the following action on the following case presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **MARK SAMORA, CASE NO. 04-3041A**
Appeal from dismissal
Classification: Information Technology Consultant
Department: California State University, Los Angeles
ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

On October 3, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **MAX LEMON, CASE NO. 05-0099**
Appeal from whistleblower retaliation complaint
Classification: Associate Warden
Department: Department of Corrections
ACTION: The Board issued a resolution denying the petition for reconsideration.

October 3, 2005

- (2) **JAIME SHAW, CASE NO. 00-2381**
Appeal from merit issue complaint
Classification: Correctional Sergeant
Department: Department of Corrections
ACTION: The Board issued a resolution granting appellant's request for an Order to Show Cause.
- (3) **KARIN CHEN, CASE NO. 04-3055 -OSC**
Appeal from medical termination
Classification: Office Technician (Typing)
Department: Department of Transportation
ACTION: The Board issued a resolution denying appellant's request for an Order to Show Cause.

COURT REMANDS

These cases would have been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On October 3, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **JOSE L. ANDRADE, CASE NO. 05-0908**
Appeal from five percent reduction in salary for 12 months
Classification: Materials and Stores Supervisor I
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the five percent reduction in salary for 12 months.

- (2) **PRECILLA CALAUNAN, CASE NO. 05-1737**
Appeal from dismissal
Classification: Psychiatric Technician Assistant
Department: Department of Developmental Services
ACTION: The Board rejected the ALJ's Proposed Decision sustaining the dismissal and remanded the matter back to the ALJ.
- (3) **RUDY CHAVEZ & FELIPE RODRIGUEZ, CASE NOS. 05-1649 & 05-1873**
Appeal from terminations of Limited Term Appointments
Classification: Pre-Licensed Psychiatric Technician & Psychiatric Technician Assistant
Department: Department of Developmental Services
ACTION: The Board rejected the ALJ's Proposed Decision granting the request for name clearing and sustaining the terminations. This matter is remanded back to the ALJ.
- (4) **JOHN HILLEBRECHT, CASE NO. 05-0948**
Appeal from dismissal
Classification: Construction Inspector II
Department: Department of General Services
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (5) **MARIA HURTADO, CASE NO. 05-1515**
Appeal from dismissal
Classification: Psychiatric Technician
Department: Department of Developmental Services
ACTION: The Board adopted the ALJ's Proposed Decision revoking the dismissal.
- (6) **SPENCER PETERSON, CASE NO. 05-1476E**
Appeal from discrimination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision denying the complaint.
- (7) **KENNETH POWELL, CASE NO. 05-1473**
Appeal from 60 working days suspension
Classification: Correctional Plumber II
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the sixty working days suspension.

October 3, 2005

- (8) **ALRETTA L. PUCKETT, CASE NO. 05-0540**
Appeal from dismissal
Classification: Key Data Operator (Range B)
Department: Department of Motor Vehicles
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (9) **TRACY THOMPSON, CASE NO. 05-0903**
Appeal from ten percent reduction in salary for 12 months
Classification: Parole Agent I, Adult Parole
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision revoking the ten percent reduction in salary for 12 months.
- (10) **MARCIA FAYE WALDOW, CASE NO. 05-1612**
Appeal from dismissal
Classification: Key Data Operator
Department: Employment Development Department
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (11) **GEORGE WOODS, CASE NO. 01-1908B**
Appeal for determination of salary, benefits and interest
Classification: Chief Engineer I (Correctional Facility)
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision denying the appeal.

Proposed Decisions Taken Under Submission At Prior Meeting

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On October 3, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **LETICIA RIVERA, CASE NO. 05-0425P**
Appeal for whistleblower retaliation complaint
Classification: Staff Services Manager I
Department: Department of Health Services
ACTION: Petition for rehearing by appellant denied.
- (2) **LYNNE SYLVIA, CASE NO. 05-1223P**
Appeal from wrongful termination
Department: Department of Health Services
ACTION: Petition for rehearing by appellant denied.
- (3) **JULIO VALADEZ, CASE NO. 04-1943P**
Appeal from termination of Career Executive Assignment
Department: Department of Corrections
ACTION: Petition for rehearing by appellant denied.

WHISTLEBLOWER NOTICE OF FINDINGS

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On October 3, 2005, the Board took the following action on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

(1) PATRICK BRASS, CASE NO. 04-1952A

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision rejected July 26, 2005

Pending transcript

Pending oral argument November 1-2, 2005, San Diego

NO ACTION

(2) LINDA DEOS, CASE NO. 05-0434A

Appeal from dismissal

Classification: Staff Counsel III (Specialist)

Department: Employment Development Department

Proposed decision rejected August 30, 2005

Pending transcript

NO ACTION

(3) GARY GARFINKEL, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest

Classification: Deputy Attorney General IV

Department: Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepared

Pending oral argument October 4-5, 2005, Sacramento

Oral argument continued

Pending oral argument November 1-2, 2005, San Diego

NO ACTION

October 3, 2005

(4) MINAS MAROKI, CASE NO. 04- 2700A

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections

Proposed decision rejected August 9, 2005

Transcript prepared

Pending oral argument November 1-2, 2005, San Diego

NO ACTION

(5) KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation

and from constructive medical termination

Classification: Office Technician (General)

Department: Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Pending oral argument December 6-7, 2005, San Francisco

NO ACTION

(6) MARK SAMORA, CASE NOS. 04-3091A

Appeal from dismissal

Classification: Correctional Lieutenant

Department: Department of Corrections

Proposed decision rejected July 13, 2005

Transcript prepared

Pending oral argument October 3, 2005, Sacramento

ACTION: SUBMITTED

23. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On October 3, 2005, the Board adopted as indicated below the following decisions presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) JESUS ANQUIANO, CASE NO. 04-2234**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and failed to meet legal obligations.
ACTION: DENIED
- (2) DAVID CAMACHO, CASE NO. 04-2988**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent and had a negative employment record.
ACTION: DENIED
- (3) BENJAMIN CORTEZ, CASE NO. 04-2855**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
ACTION: DENIED
- (4) SYLVIA COYT, CASE NO. 05-0040**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and a negative law employment record.
ACTION: DENIED
- (5) HENRY GARCIA, CASE NO. 04-2852**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and a negative employment record.
ACTION: DENIED

- (6) **ROBERT HERNANDEZ, CASE NO. 04-2586**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, negative driving record and negative law enforcement contacts.
ACTION: DENIED
- (7) **ROBERT HIRSCH, CASE NO. 05-0063**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and had a negative employment record.
ACTION: DENIED
- (8) **RODRIGO HUESO, CASE NO. 05-0070**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and had a negative employment record.
ACTION: DENIED
- (9) **JOSE IBARRA, CASE NO. 04-3015**
Classification: California Highway Patrol
Department: CHP Cadet
Issue: Suitability; omitted pertinent information and illegal drug use.
ACTION: DENIED
- (10) **CLAUDIO VELA, CASE NO. 04-2884**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and had a negative employment record.
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. JAMES MCAULEY, CASE NO. 04-1856

Appeal from dismissal. Associate Transportation Engineer. Department of Transportation. (Oral argument held June 7, 2005.)

ACTION: The Board issued a resolution sustaining the dismissal with member Harrigan dissenting.

October 3, 2005

7. HEARING – Personal Services Contract #05-03

Appeal of SEIU Local 1000 (CSEA) from the Executive Officer's February 16, 2005 Approval of a Contract for Information Technology Services between the California Department of Health Services (DHS) and IDNS, Inc. (Hearing held July 13, 2005)
ACTION: The Board adopted the Executive Officer's decision approving the contract.

8. PATRICK BARBER, CASE NO. 04-0174A.

Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority. (Oral Argument held July 13, 2005)
NO ACTION

9. JON CHASE, CASE NO. 04-0392A.

Appeal from 30 working days suspension. Associate Management Auditor. Employment Development Department. (Oral Argument held August 9, 2005)
NO ACTION

10. HEARING – PERSONAL SERVICES CONTRACT # 05-07

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)
NO ACTION

11. INTERNATIONAL UNION OF OPERATING ENGINEERS, UNIT 12, LOCALS 3, 12, 39, & 501, CASE NO. 04-0813A [PSC File No. 04-002 (b)]
Review of personal services contract for maintenance and grounds keeping. California Science Center. (Oral Argument held August 30, 2005)
ACTION: The Board issued a resolution remanding the matter back to the Chief ALJ for an evidentiary hearing.

12. JOSEPH MARTINEZ, CASE NO. 04-2690A

Appeal from dismissal. Hospital Police Officer. Department of Mental Health. (Oral Argument held August 30, 2005)
NO ACTION

13. ANDREW RUIZ, CASE NO. 04-2391A

Appeal from dismissal. Correctional Lieutenant. Department of Corrections. (Oral Argument held August 30, 2005)
NO ACTION

14. HEARING

Proposed resolution to abolish Associate Governmental Program Analyst eligible list created by the California Department of Education. (Hearing held September 20, 2005)
ACTION: The Board approved staff's recommendation abolishing the list.

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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CORRECTIONS

In the Summary Minutes of July 26, 2005, page 14, under **PENDING BOARD REVIEW**, the Mark Samora case should be corrected to reflect the following information:

- (7) **MARK SAMORA, CASE NO. 04-3041A**
Appeal from dismissal
Classification: Instructional Technology Consultant
Department: University of California, Los Angeles

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on October 3, 2005.

VOTE: Tom, Alvarado, Harrigan, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive style with a long horizontal line extending from the end.

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board